



Phillips Lytle LLP

Via ECF

September 1, 2021

The Honorable Nina Gershon
United States District Judge
The Honorable Roanne L. Mann
United States Magistrate Judge
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Joint Status Report: *Suffolk County Water Authority v. The Dow Chemical Co. et al.*,
No. 2:17-cv-6980-NG-RLM, and *Related Cases*

Dear Judge Gershon and Judge Mann:

On behalf of all 32 Parties in the referenced cases, and consistent with the status report provided to Judge Mann on August 13, 2021 (ECF 192), the Parties update below their progress regarding discovery items raised in Defendants' Motions to Compel (ECF 173, 174), as referenced in prior status reports (ECF 179, 180, 183, 188, 192), regarding other discovery items previously reported to the Court, and regarding additional case updates.

I. Discovery Items Related to Defendants' Prior Motions to Compel

Following conferral, further information exchanges, and Plaintiffs' (and their consultants') production of various additional materials after the hearing on Defendants' Motions to Compel, Defendants are reviewing Plaintiffs' additional document productions. If Defendants believe there are remaining issues with Plaintiffs' productions, they will confer with Plaintiffs. All Plaintiffs reserve their right to continue to supplement their document productions as necessary or otherwise required by the Federal Rules.

II. Third-Party Complaints

On August 30, 2021, Defendants The Dow Chemical Company, Ferro Corporation and Legacy Vulcan Materials, LLC ("Third-Party Plaintiffs") filed third-party complaints seeking contribution from Third-Party Defendants in 17 of the 27 cases. Exhibit A to this letter identifies the 84 Third-Party Defendants, and the cases in which they have been named. Third-Party Plaintiffs will promptly serve Third-Party Defendants and file proofs of service by September 20, 2021 as set forth in the Scheduling Order. ECF 171 at 3.

ATTORNEYS AT LAW

JOEL A. BLANCHET PARTNER DIRECT 716 847 7050 JBLANCHET@PHILLIPSLYTLE.COM

ONE CANALSIDE 125 MAIN STREET BUFFALO, NEW YORK 14203-2887 PHONE (716) 847-8400 FAX (716) 852-6100 | PHILLIPSLYTLE.COM
NEW YORK: ALBANY, BUFFALO, CHAUTAUQUA, GARDEN CITY, NEW YORK, ROCHESTER | WASHINGTON, DC | CANADA: WATERLOO REGION



September 1, 2021

III. Third-Party Discovery

To date, the Parties have served over 100 document subpoenas or FOIA requests on third-parties, which has resulted in the production of approximately 240,000 third-party documents.

As part of this process, the Parties have spent considerable time conferring with the New York Department of Environmental Conservation and the Environmental Protection Agency and are continuing those conferrals regarding the timing and substance of the agencies' document productions. If necessary, the Court may be presented with a motion seeking to order speedier document productions from the agencies.

In addition to document subpoenas, Plaintiffs have served a third-party deposition subpoena on Pride Solvents & Chemical Co., Inc. ("Pride"), which was a distributor of chemical products on Long Island and has historically bought and sold some of the products at issue to various customers over the years. By agreement of the Parties and Pride, the deposition of Pride has been postponed until sometime in the latter half of September. Plaintiffs also have served third-party subpoenas seeking documents from Defendants' customers and other distributors.

IV. Other Discovery Items

The Court's Scheduling Order provides for depositions to take place between September 8, 2021 and June 3, 2022. (ECF 171). The Parties have been in discussion regarding remote and in-person deposition procedures. The Parties are also conferring regarding the scope of the Rule 30(b)(6) Deposition Notices that Plaintiffs served on Dow, Ferro, and Vulcan. The 84 newly-added Third-Party Defendants have not yet appeared in the cases, and have not participated in discussions regarding the timing of party or non-party depositions. Plaintiffs and Defendants will report back to the Court should any issues arise.

* * *

The Parties will provide the Court with a further update in the next regularly scheduled status report on November 30, 2021 but will promptly bring to the Court any issues requiring earlier intervention following good faith conferral.



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 3

September 1, 2021

Respectfully submitted,

/s/ Joel A. Blanchet
JOEL ALAN BLANCHET
jblanchet@phillipslytle.com
ANDREW P. DEVINE
adevine@phillipslytle.com
PHILLIPS LYTLE LLP
One Canalside
125 Main Street
Buffalo, NY 14203
(716) 847-7050

KEVIN T. VAN WART
kevinvanwart@kirkland.com
NADER R. BOULOS
nboulos@kirkland.com
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
(312) 862-2000
Attorneys for Defendant The Dow Chemical Company

ROBB W. PATRYK
robb.patryk@hugheshubbard.com
FARANAK SHARON TABATABAI
fara.tabatabai@hugheshubbard.com
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, NY 10004
(212) 837-6000
Attorneys for Defendant Ferro Corporation

/s/ Stephanie D. Biehl
STEPHANIE D. BIEHL
stephanie@sheredling.com
MATTHEW K. EDLING
matt@sheredling.com
VICTOR M. SHER
vic@sheredling.com
KATIE H. JONES
katie@sheredling.com
SHER EDLING LLP
100 Montgomery St. Suite 1410
San Francisco, CA 94104
(628) 231-2500
Attorneys for Plaintiffs¹

SCOTT MARTIN
smartin@hausfeld.com
Jeanette Bayoumi
jbayoumi@hausfeld.com
HAUSFELD LLP
33 Whitehall St., 14th Floor
New York, NY 10004
(646) 357-1100

RICHARD S. LEWIS
rlewis@hausfeld.com
HAUSFELD LLP
1700 K Street, NW, Suite 650
Washington, DC 20006
(202) 540-7200

¹ The Sher Edling firm represents all Plaintiffs in these related cases except Plaintiffs New York American Water (19-cv-2150) and Hicksville Water District (19-cv-5632).



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 4

September 1, 2021

STEPHEN C. DILLARD, *pro hac vice*
steve.dillard@nortonrosefulbright.com
NORTON ROSE FULBRIGHT US LLP
1301 McKinney, Suite 5100
Houston, Texas 77010
(713) 651-5151

FELICE B. GALANT
felice.galant@nortonrosefulbright.com
NORTON ROSE FULBRIGHT US LLP
1301 Avenue of the Americas
New York, NY 10019
(212) 318-3000
Attorneys for Defendant Vulcan Materials Company

MEGAN R. BRILLAULT
mbrillaault@bdlaw.com
DANIEL M. KRAININ
dkrainin@bdlaw.com
PAULA J. SCHAUWECKER
pschauwecker@bdlaw.com
BEVERIDGE & DIAMOND P.C.
477 Madison Avenue
15th Floor
New York, NY 10022
212-702-5400
Attorneys for Defendant Shell Oil Company

DAVID J. LENDER
david.lender@weil.com
JED PAUL WINER
jed.winer@weil.com
WEIL, GOTSHAL & MANGES, LLP
767 Fifth Avenue

JAMES GOTZ
jgotz@hausfeld.com
HAUSFELD LLP
One Marina Park Drive, Suite 1410
Boston, MA 02210
(617) 207-0600

KATIE R. BERAN
kberan@hausfeld.com
HAUSFELD LLP
325 Chestnut Street, Suite 900
Philadelphia, PA 19106
(215) 985-3270
Attorneys for Plaintiff Suffolk County Water Authority

FRANK R. SCHIRRIPA
fschirripa@hrsclaw.com
MICHAEL A. ROSE
mr@hachroselaw.com
HILLARY M. NAPPI
hnappi@hrsclaw.com
HACH ROSE SCHIRRIPA & CHEVERIE, LLP
112 Madison Avenue - 10th Floor
New York, New York 10016
(212) 213-8311

J. NIXON DANIEL, III
jnd@beggsllane.com
MARY JANE BASS
mjb@beggsllane.com
BEGGS & LANE, RLLP
501 Commendencia Street
Pensacola, FL 32502
850-469-3306



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 5

September 1, 2021

New York, NY 10153
212-310-8000

DIANE P. SULLIVAN
diane.sullivan@weil.com
WEIL GOTSHAL & MANGES LLP
17 Hulfish Street, Suite 201
Princeton, NJ 08542
609-986-1120
Attorneys for Defendant The Procter & Gamble Company

T. ROE FRAZER, II
roe@frazer.law
THOMAS ROE FRAZER, III
trey@frazer.law
W. MATTHEW PETTIT
mpettit@frazer.law
FRAZER PLC
30 Burton Hills Blvd., Suite 450
Nashville, TN 37215
615-647-0987
Attorneys for Plaintiff New York American Water Company, Inc.
Paul J. Napoli
pnapoli@nsprlaw.com
Lilia Factor
lfactor@napolilaw.com
NAPOLI SHKOLNIK PLLC
360 Lexington Avenue, 11th Floor
New York, NY 10017
(212) 397-1000
Attorneys for Plaintiff Hicksville Water District

cc: All Counsel of Record (by ECF)



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 6

September 1, 2021

EXHIBIT A

Third Party	Case
100 East Properties LLC	New York American Water
101 Frost Street Associates, L.P.	Town of Hempstead
1025 II LLC	Town of Hempstead
120 Marcus Realty LLC	SCWA
129 Real Estate Management LLC.	Town of Hempstead
1st State LLC	Town of Hempstead
225 Robbins LLC	Jericho
230 Duffy Owner LLC	Hicksville
233 Robbins Holding LLC	Jericho
325 Duffy Owner LLC	Hicksville
40 Roselle LLC	Mineola Village
5 Cuba Hill Owner LLC	SCWA
55 Motor Avenue Co., LLC	New York American Water, South Farmingdale
550 Liberty Plaza LLC	SCWA
570 Properties, Inc.	Town of Hempstead
65 Daly Road LLC	Greenlawn
66 Brooklyn Ave LLC	Town of Hempstead
750 Summa Avenue LLC	Town of Hempstead
Airport Plaza, LLC	SCWA
Alkier Steel, LLC	Hempstead Village
Amee A. Patel	Town of Hempstead
Anthony Antoniou	SCWA
Anwar Chitayat, as Trustee of the Anwar Chitayat Environmental Trust	SCWA
Arkwin Industries, Inc.	Town of Hempstead
Ashwinkumar Somabhai Patel as Trustee for the Patel Trust of July 29, 1977 of California	Town of Hempstead



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 7

September 1, 2021

Third Party	Case
Associated Brook, Inc.	Bethpage, New York American Water, South Farmingdale
B. Shell Realty, LLC	Franklin Square, New York American Water
Breeze-Eastern LLC	New York American Water
Conair Corporation	Garden City Village
County of Nassau	Hempstead Village, Town of Hempstead
Crescent Group Realty Inc.	SCWA
Empire Properties LI LLC	SCWA
Equity One (Northeast Portfolio) LLC	Hempstead Village, Town of Hempstead
FED 270-280 LLC	Hicksville, Town of Hempstead
FED 290 LLC	Hicksville, Town of Hempstead
FED 717-725 LLC	SCWA
FED John LLC	Hicksville
FGG Realty Associates, LLC	SCWA
Fortune Avenue Holdings LLC	Hempstead Village
Gordon-Atlantic Corp.	Garden City Village
Grand Machinery Exchange, Inc.	Town of Hempstead
GSM 270-280 LLC	Hicksville, Town of Hempstead
GSM 290 LLC	Hicksville, Town of Hempstead
GSM 717-725 LLC	SCWA
GSM John LLC	Hicksville
H.D.P. Printing Industries Corp.	Town of Hempstead
ICA 270-280 LLC	Hicksville, Town of Hempstead
ICA 290 LLC	Hicksville, Town of Hempstead
ICA 717-725 LLC	SCWA
ICA John LLC	Hicksville
K.B. Co. 2 L.P.	Hicksville



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 8

September 1, 2021

Third Party	Case
Leonard Cohen	Town of Hempstead
Long Island Jewish Medical Center	Great Neck North, Manhasset-Lakeville
Loni-Jo Realty Co., LLC	Town of Hempstead
Mako Properties, LLC	SCWA
Metpar Corp.	Town of Hempstead
Mineola 435, LLC	Franklin Square, Garden City Village, West Hempstead
Nassau Steel, LLC	Bethpage, South Farmingdale
Neal Shalom as Trustee of the 1111 Marcus Avenue Grantor Trust	Great Neck North, Manhasset-Lakeville
Nest Equities, Inc.	Town of Hempstead
Next Millennium Realty LLC	Town of Hempstead
Norma Cohen	Town of Hempstead
Northrop Grumman Corporation	Bethpage, New York American Water, South Farmingdale
Oerlikon Metco (US) Inc.	Hicksville, Town of Hempstead
Omega Melville LLC	SCWA
One Adams Owner LLC	SCWA
Rajen A. Patel	Town of Hempstead
SAF 270-280 LLC	Hicksville, Town of Hempstead
SAF 290 LLC	Hicksville, Town of Hempstead
SAF 717-725 LLC	SCWA
SAF John LLC	Hicksville
Seaboard Estates Inc.	Western Nassau County
Steel Forest, LLC	SCWA



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 9

September 1, 2021

Third Party	Case
Steel Mineola Second Street, LLC	Hempstead Village
Steel-Los III L.P.	Bethpage, New York American Water, South Farmingdale
Stone Post, Inc.	Town of Hempstead
Syosset Park Development, LLC	Jericho
The Suffolk County Landbank Corporation	SCWA
Town of Babylon	SCWA
Town of Islip	SCWA
Town of North Hempstead	Port Washington
Town of Oyster Bay	New York American Water, South Farmingdale
United States of America	Bethpage, South Farmingdale
Vars Re2, LLC	Western Nassau County